



Setti D. Warren
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Candace Havens
Director

Zoning Reform Phase 1 – Advisory Group Meeting Notes

The Zoning Reform Advisory Group is a diverse body of professionals whose daily jobs require them to frequently use the Newton Zoning Ordinance and/or are affected by it. Meetings of this group are publicly posted on the Zoning Reform website at the link below and via other channels and are open to the public, who will have an opportunity to comment at the end of every meeting. The purpose of the advisory group is to share their perspectives and opinions on the existing zoning ordinance and proposed changes with Planning Department staff and the zoning reform consultant. The Zoning Reform Phase 1 project will encompass changes to the existing zoning ordinance to make it a more useable document including reorganizing the sections of the ordinance, illustrating requirements, and incorporating tables.

<http://www.newtonma.gov/gov/planning/lrplan/zoning/zoningref.asp>

Meeting Notes – February 11, 2013

The meeting began with an explanation of the project scope and introductions of members of the group and the City's project manager James Freas, Chief Planner for Long-Range Planning and Lee Einsweiler, Principal with the City's zoning reform consultant Code Studio. Mr. Einsweiler shared a copy of a Sample Book providing information about his firm and showing examples of zoning ordinance outlines, and sample pages demonstrating the types of illustrations, tables, and layout to consider.

Mr. Einsweiler asked the group the following questions:

1. Is the Newton Zoning Ordinance easy to use? If not, what makes it difficult?
2. Is organization and structure of the document an issue?
3. What about the page formatting and layout?
4. Are there any conflicts, inconsistencies, poor wording or other issues you have experienced?
5. Are there specific sections that are unclear or overly complex?
6. Are there examples of better code organization or format that you have encountered?
7. What are your overall expectations for this initial phase of the work?

The responses of individual advisory group members to these questions can generally be divided into the following topical areas:

Specific Zoning Ordinance Problem Areas

- The existing ordinance is not easy to use, even for professionals who make regular use of zoning – hard to navigate and to find sections relevant to a particular project.
- There are many ambiguities in the dimensional requirements.
- There are lots of exceptions to the rules and these are hard to find.

- The lack of tables and graphics makes the ordinance difficult to read.
- There are many exceptions to the dimensional standards, which may be located in another section or a footnote. Section 30-15 is the most confusing – especially lettered sections and the notes to the dimensional tables.
- 30-20 is a difficult section.
- There are problems with the official zoning map.
- Defining height in a hilly city like Newton is a challenge.
 - Mr Einsweiler further noted that many of the historic single family homes in Newton are very tall, the equivalent of a four, maybe even five story commercial building. The design of these buildings moderates the height and bulk. When considering height regulations, these are important factors.
- Not enough definitions. Doesn't matter where in the document the definitions are found.
- Legislation must be removed from the definitions.
- Consider the idea of a "statement of intent" for each section.
- Problems with section 30-5 relative to Dover Amendment uses and parking requirements. "Phantom" parking spaces make requirements difficult to apply.
- The illustration of dormers is OK.
 - Mr. Einsweiler used this illustration as an example of the idea that illustrations used in the zoning ordinance should reflect the best case example, conveying intent along with the regulation so that builders are more likely to emulate these examples in their design.
- Need graphics illustrating the landscaping requirements for parking lots.
- Consolidated use table is needed.
- The business community has expressed frustration with the processes and standards of the existing ordinance.
- Special permit process makes it difficult for neighbors and developers to know what is allowed.
- Many people act in a manner contrary to the regulations – some because they simply don't know things are regulated, but also some who find asking forgiveness easier than asking for a permit.
- A more useable code on the web is needed.

Consequences

- A bad ordinance eats up citizen time, costs citizens more money. Difficulty understanding the ordinance leads to time wasted seeking answers to questions about the ordinance, wasted time creating designs that turn out to be inconsistent with the ordinance.
- Also wastes staff time explaining what should be apparent from the text of the ordinance. Staff time spent explaining is inefficient use of City resources.

"Newton Zoning Theory"

- In making changes to the ordinance, the City struggles with the issue of making an ordinance that is "airtight" while also being "elegant" or easy to use.
 - Mr Einsweiler suggested on this point that one approach to this issue is to blend "prescription and process" which is to say to prescribe the regulations up to a point and then establish a process for handling the outlier cases rather than attempting to make the ordinance "airtight."
- It has been important to not lose historical intent while considering ordinance changes.
- Newton is built out, and therefore cares a lot about exceptions or variances. There has been an affirmative decision in the past to not set up the zoning ordinance for design.
 - Mr Einsweiler at this point clarified use of the word design, which is inclusive of building placement (setbacks), height, and a range of other factors including architectural style. From

this perspective, the existing zoning ordinance does directly address some aspects of design.

The existing ordinance does not address architectural style.

- In an effort to be fair, ordinance amendments have frequently been very complex. FAR amendments were cited as an example.
- Much of the ordinance is time-specific (“built before 1952”), making administration difficult.
- Many amendments have been to resolve a “From now on...” –type issue which is to say that they react to a current issue in the City and are not well coordinated with the ordinance as a whole.
- The regulations for single family properties assume no one will build to the setbacks, but there has been a cultural change in building industry – developers build to maximize the square footage of a home.

Project Objective

- Enhancing the usability of the ordinance such that the average homeowner can understand it may be an unattainable goal.
- New ordinance should utilize modern technology – should be a searchable document with links between sections.
- The project should result in an ordinance that will more clearly communicate the existing ordinance and its problems so as to foster the understanding and support necessary for phase 2 of zoning reform.
- Adopting the reconfigured zoning ordinance may add unnecessary complexity to the project – it may not be worth the effort. Instead the results of phase 1 should be used as the basis for starting phased 2.
- The zoning ordinance document should be clearer and more concise.
- Throughout zoning reform, need to pay attention to the “non-users” – those who do not regularly use the ordinances but are effected by the development outcomes and the restrictions created on their properties.
- Try not to send the reader back and forth in the ordinance with cross-references. Need to add external cross-references to other applicable regulations.
- It was noted that “clean-up” without policy change will be difficult.
- Maintain a list of phase 2 zoning reform items noted as the project moves forward. Include recodification committee items.
- Consider creating a companion “Zoning for Dummies” type document for residential builders and homeowners.

Advisory Group Members*

Alan Schlesinger	Lisa Mirabile
George Mansfield	Paul Eldrenkamp
Greg Reibman	Terry Sack
Henry Finch	Thomas Greytak
Jay Walter	Verne Porter
Jen Molinsky	Alderman Vicki Danberg

** The Advisory Group is a collection of individuals. The comments provided above should not be taken as representing the collective opinions of the entire group but are instead the opinions of individuals participating in the meeting. When a consensus opinion is generated by the group, it will be noted as such in the meeting notes.*